

## **REMARKS**

Reconsideration of the application in view of the foregoing amendment is respectfully requested.

By the present amendment, claims 12-22 have been added, claims 1-11 have been canceled.

Based on the foregoing amendments and the following remarks, the application is deemed to be in condition for allowance and action to that end is respectfully requested.

### **I. Rejection Under 35 U.S.C. § 112**

The Examiner rejected Claims 4 and 9 under 35 U.S. C. § 112, second paragraph, for allegedly being indefinite. As noted above, claims 4 and 9 have been canceled, together with claims 1-3, 5-8, and 10-11. It is respectfully submitted that the new claims 12-22 comply with all of the requirements of 35 U.S.C. § 112.

### **II. Rejection Over the Prior Art**

The Examiner rejected claim 1 under 35 U.S.C. § 112(b) as being anticipated by Gohlke, U.S. Patent No. 6,029,412 (Gohlke). Claims 2-4 were

rejected under U.S.C. § 103(a) as being unpatentable over Gohlke in view of Charland et al., U.S. patent No. 5,452,551 (Charland). Claim 5 has been rejected as claims 2-4 above and further in view of Porter, U.S. Patent No. 6,725,615 (Porter). Claims 6-11 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Porter. It is respectfully submitted that claims 12-22 are patentable over the cited above references.

Specifically claim 1 recites at least two separate support members freely arrangeable about a circumference of the sealing for securing the sealing element to the building part, with at least one of the sleeve sections of the support member having engagement means for engaging the sealing element for securely holding the same in place.

The present invention, as defined by claim 12, is characterized by the flexibility in use. Different dimensions and cross-sectional shapes of conduit passages can be reliably sealed off by using the sealing system of the invention. The support members can be positioned along the entire circumference of the sealing element whereby special requirements as to number, orientation or constructional requirements can be taken into account. With the engagement means provided on at least sleeve section, support member is freely arrangeable on

the sealing element, and no predefined connection point has to be taken into account.

The novel features of the present invention are not disclosed in Gohlke. Gohlke refers to an intumescent collar including a body stamped from a flat sheet having three anchor tabs formed on one edge of the body. One of the tabs arranged at the end of the body is narrower to interlock integral with the other tab arranged at the other end of the body. Lances are bent at right angle to the body and hold a strip of intumescent material in place on the body. The length of the collar is preformed to match the circumference of a pipe for which the collar is intended. The overlapping anchor tabs and the other anchor tab are fastened to a wall or floor by a nail or screw.

Gohlke fails to disclose separate support members freely arrangeable along the circumference of the sealing means. Nor does Gohlke disclose support members having a fastening section and at least two sleeve sections whereby engagement means are provided on at least one sleeve section for engaging in the sealing element. With the intumescent collar according to Gohlke only conduits having more or less an outer circumference according to the inner circumference of the intumescent collar can be reliably sealed off.

In view of the above, it is respectfully submitted that Gohlke neither anticipates nor makes obvious claim 12, and claim 12 is patentable over Gohlke.

Claims 13-16 depend on claim 12 and are allowable for the same reason claim 12 is allowable and further because of specific features therein which, when taken alone and/or in combination with features of claim 12, are not disclosed or suggested in the prior art.

Specifically, claims 2 and 3 recite that the sealing element comprises a fabric tape with an inlay of intumescent material (claim 2) or of material that expands upon contact with liquids. This is not disclosed in the prior art, including Charland.

Charland shows the adhesive tape only as an appropriate means for fastening the intumescent firestop ring to a pipe or other ring (col. 3, line 64 to col. 4, line 7).

Claim 5 recites that the sleeve sections are arranged side by side, and a hinge is provided therebetween. Porter does not disclose a separate support member with two sleeve sections arranged side by side and connected by a hinge.

It is further respectfully submitted that claims 17-22 are patentable over Porter. Specifically, claim 17 recites a support member having a first arm with a

fastening section, and at least one second arm that extends transverse to the first arm and has two sleeve section arranged side by side.

The foregoing novel features set forth in claim 17 are not disclosed in Porter. Porter shows a casing of a fire collar having lines of weakening so that it may be wrapped into a selected shape. The separate brackets according to Porter (US '615) have to be engaged in the slots in the casing of the fire collar and therefore, this disclosure have the same drawbacks as DE 44 11 220 A1 mentioned in the pending application on page 2 in the last paragraph.

In view of the above, it is respectfully submitted that Porter does not anticipate or makes obvious the present invention as defined by claim 17, and claim 17 is patentable over Porter.

Claims 18-22 depend on claim 17 and are likewise allowable.

## CONCLUSION

In view of the foregoing, it is respectfully submitted that the application is in condition for allowance, and allowance of the application is respectfully requested.

Should the Examiner require or consider it advisable that the specification, claims and/or drawings be further amended or corrected in formal respects in order to place the case in condition for final allowance, it is respectfully requested that such amendment or correction be carried out by Examiner's Amendment and the case passed to issue. Alternatively, should the Examiner feel that a personal discussion might be helpful in advancing this case to allowance, the Examiner is invited to telephone the undersigned.

Respectfully submitted,

Alexander Zinchuk  
Alexander Zinchuk  
Reg. No. 30,541

Dated: August 18, 2005  
Abelman, Frayne & Schwab  
666 Third Avenue, 10th Floor  
New York, NY 10017-5621  
  
212-885-9383

This correspondence is being deposited with the United States Postal Service on August 18, 2005 in an envelope as "Express Mail Post Office to Addressee" Mailing Label Number ER 843 204 847 US addressed to the Honorable Commissioner for Patents, Alexandria, VA 22313-1450.

Alexander Zinchuk  
Alexander Zinchuk